
Introduced by Senator Alarcon

January 26, 2006

An act to amend Section 708 of, and to add Section 708.5 to, the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as introduced, Alarcon. Corporations: contested and uncontested elections of directors.

Existing law provides that, in any election of the members of the board of directors of a corporation, the candidates receiving the highest number of affirmative votes of the shares entitled to be voted for them up to the number of directors to be elected by those shares are elected.

This bill would make that provision applicable only to a contested election of directors, as defined; whereas, in an uncontested election of directors, as defined, approval by a majority of the shares represented and voting would be required to elect each director, except in certain circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 708 of the Corporations Code is
- 2 amended to read:
- 3 708. (a) Except as provided in Section 301.5, every
- 4 shareholder complying with subdivision (b) and entitled to vote
- 5 ~~at any~~ a *contested* election of directors may cumulate such
- 6 shareholder's votes and give one candidate a number of votes
- 7 equal to the number of directors to be elected multiplied by the

1 number of votes to which the shareholder's shares are normally
2 entitled, or distribute the shareholder's votes on the same
3 principle among as many candidates as the shareholder thinks fit.

4 (b) No shareholder shall be entitled to cumulate votes (i.e.,
5 cast for any candidate a number of votes greater than the number
6 of votes ~~which such~~ *that the* shareholder normally is entitled to
7 cast) unless ~~such~~ *the* candidate or candidates' names have been
8 placed in nomination prior to the voting and the shareholder has
9 given notice at the meeting prior to the voting of the
10 shareholder's intention to cumulate the shareholder's votes. If
11 any one shareholder has given ~~such~~ *that* notice, all shareholders
12 may cumulate their votes for candidates in nomination.

13 (c) In ~~any~~ *a contested* election of directors, the candidates
14 receiving the highest number of affirmative votes of the shares
15 entitled to be voted for them up to the number of directors to be
16 elected by ~~such~~ *those* shares are elected; votes against the
17 director and votes withheld shall have no legal effect. *For*
18 *purposes of this section, "contested election" means an election*
19 *in which the number of nominees exceeds the number of vacant*
20 *positions on the board of directors.*

21 (d) Subdivision (a) applies to the shareholders of any mutual
22 water company organized or existing for the purpose of
23 delivering water to its shareholders at cost on lands located
24 within the boundaries of one or more reclamation districts now or
25 hereafter legally existing in this state and created by or formed
26 under the provisions of any statute of this state, but does not
27 otherwise apply to the shareholders of mutual water companies
28 unless their articles or bylaws so provide.

29 (e) Elections for directors need not be by ballot unless a
30 shareholder demands election by ballot at the meeting and before
31 the voting begins or unless the bylaws so require.

32 SEC. 2. Section 708.5 is added to the Corporations Code, to
33 read:

34 708.5. (a) For purposes of this section, "uncontested
35 election" means an election in which the number of nominees
36 does not exceed the number of vacant positions on the board of
37 directors.

38 (b) In an uncontested election of directors, approval of the
39 shareholders, as specified in Section 153, shall be required to

1 elect a director. Votes against the director and votes withheld
2 shall have legal effect.

3 (c) A corporation may amend its bylaws to provide that
4 uncontested elections of directors shall instead be conducted in
5 the manner specified in Section 708, however, this amendment
6 shall require approval of the outstanding shares, as specified in
7 Section 152.

8 (d) Notwithstanding subdivision (b) of Section 301, if, in an
9 uncontested election where approval of the shareholders is
10 required, an incumbent director fails to be approved by the
11 shareholders, then the incumbent director shall resign within 90
12 days and the board may declare vacant the office of that director.

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